



Direction under subsection 121(1) of the *Telecommunications Act 1997*

TO: Telstra Corporation Limited (ACN 051 775 556)

OF: Level 20/400 George Street
SYDNEY, NSW, 2000

Background

Following an investigation, the Australian Communications and Media Authority (**the ACMA**) found that Telstra Corporation Limited (ACN 051 775 556) (**Telstra**) has contravened the Billing Accuracy requirements in clause 5.5.1 of the Telecommunications Consumer Protections Code C628:2019 (**TCP Code 2019**) between 1 August 2019 (when the TCP Code 2019 commenced) and 27 February 2020.

The investigation followed Telstra advising the ACMA on 30 April 2020 that it had overcharged 10,492 customers a total of \$2,425,962 for services intended to be interim services (**interim services**) provided under the *Telecommunications (Customer Service Guarantee) Standard 2011* (**CSG Standard**) between 13 February 2008 and 27 February 2020. Interim services are made available to consumers where timeframes for service connection and fault rectification set out in the CSG Standard cannot be met.

The following direction relates to the contraventions of the TCP Code 2019 identified during the ACMA's investigation.

TCP Code billing accuracy requirements

Clause 5.5.1 of the TCP Code 2019 requires a Supplier to ensure it provides, and is able to verify and demonstrate, Billing Accuracy except for inaccuracies caused by:

- (a) the Supplier's reliance on information provided by a person who is not its director, employee or agent;
- (b) an action or failure of another person who is not the Supplier's director, employee or agent; or
- (c) an accident, mistake or any matter beyond the Supplier's control, where the Supplier took reasonable care and precautions to avoid the inaccuracy.

'Billing Accuracy' is defined in the TCP Code 2019 to mean the validity of Charges and the correctness of the calculation of the Charges. 'Charge' is defined to mean the tariff or fee which a Supplier levies for the provision of a Telecommunications Product or a related transaction.

Details of the contraventions

The overcharging which Telstra reported to the ACMA on 30 April 2020 was caused by Telstra, and none of the exceptions in clauses 5.5.1(a), (b) and (c) of the TCP Code 2019 (extracted above) apply. Accordingly, between 1 August 2019 (when the TCP Code 2019 commenced) and 27 February 2020, Telstra was not able to provide, verify and demonstrate Billing Accuracy for certain customers in respect of the interim services to those customers, in contravention of clause 5.5.1 of the TCP Code 2019. Telstra has confirmed that certain customers were overcharged during this period and that their bills did not accurately reflect a correct or valid calculation of the Charges for those customers.

DIRECTION

The ACMA, under subsection 121(1) of the *Telecommunications Act 1997* (the **Act**), hereby directs Telstra to comply with clause 5.5.1 of the TCP Code 2019.

Requirement to comply with this Direction

Under subsection 121(2) of the Act, Telstra must comply with a direction under subsection 121(1) of the Act.

If Telstra does not comply with this direction, the ACMA may apply to the Federal Court for an order that Telstra pay the Commonwealth a pecuniary penalty in respect of its contravention of a civil penalty provision (subsection 121(4) and section 570 of the Act).

Reconsideration of a decision

If Telstra is dissatisfied with the decision to give this direction, it may seek reconsideration of the decision by the ACMA under subsection 558(1) of the Act by making an application in writing to the ACMA, which sets out the reasons for the application. There is no application fee. If Telstra requests reconsideration of the ACMA's decision to give this direction, the ACMA will reconsider its decision, taking into account any further submissions made by Telstra. The ACMA may affirm, vary or revoke its decision to give this direction.

The ACMA must make a decision in response to an application under subsection 558(1) of the Act within 90 days after receiving the application. Any such application should be made within 28 days after the date on which this notice of decision is given to Telstra, and addressed to the person whose contact details are included below.

If not already provided, Telstra may also request a statement of reasons in relation to the decision on that reconsideration, under section 28 of the *Administrative Appeals Tribunal Act 1975* (**AAT Act**). Any such request should be made within 28 days of the reconsideration decision and addressed to the person whose contact details are included below.

AAT review

If Telstra is dissatisfied with the ACMA's decision on reconsideration then, in accordance with section 562 of the Act, Telstra has the right to seek review of the reconsideration decision by the Administrative Appeals Tribunal (**AAT**).

The AAT is an independent body. The AAT can, amongst other things:

- confirm the ACMA's decision;
- vary the ACMA's decision; or
- set the ACMA's decision aside and replace it with its own decision.

An application to the AAT for review must be in writing. The AAT has a form for this purpose which may be used if preferred.

An application for review should be made within 28 days of being told about the decision. An \$952 application fee must be paid with the application. If Telstra wishes to apply for the application fee to be waived, an application form for that purpose can be obtained from the AAT.

The AAT website has more information at www.aat.gov.au. Further questions about the AAT's procedures or requirements may be directed to the AAT (by telephone on 1800 228 333 or by post to AAT, GPO Box 9955 in each capital city).

Access to documents

Telstra also has a right to seek access to documents about the decision to give this direction, or any associated reconsideration decision, under the *Freedom of Information Act 1982 (FOI Act)*. The application must be made to the ACMA in writing (there is no special form) and must:

- state that the request is an application for the purpose of the FOI Act;
- provide sufficient information about the documents sought to be obtained as is reasonably necessary to enable the ACMA to identify them; and
- give details of how notices under the FOI Act may be sent to the applicant (e.g. postal address or email address).

The ACMA's website has more information on how to make an application at www.acma.gov.au.

Making a complaint

Any complaint about the way the ACMA has handled this matter may be directed to the person whose details are provided below.


A complaint may also be made to the Commonwealth Ombudsman (the Ombudsman usually prefers that any concerns are raised with the ACMA first). There is an office of the Commonwealth Ombudsman in each capital city. Further information may be obtained at www.ombudsman.gov.au or call 1300 362 072.

Contacting the ACMA

Should you require further information, please contact:

Peter Sutton
Manager
Telecommunications, Compliance, Enforcement and Education Section
PO Box 13112 Law Courts
Melbourne, VIC 8010
Ph: (03) 9963 6950
Email: peter.sutton@acma.gov.au

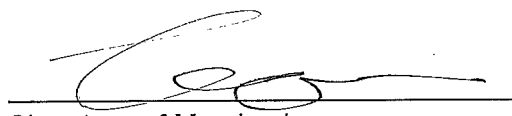
Dated the 17th day of September 2020



Signature of Member

Fiona Cameron

Name (Please Print)



Signature of Member/
General Manager
Creina Chapman

Name (Please Print)